THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5477 of 2003

Dated: 25.07.2007

Between:

Rapeti Teja Santhosh Kumari.

.... PETITIONER

AND

The District Collector, Visakhapatnam,
Visakhapatnam District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5477 of 2003

ORDER

This writ petition is filed seeking a Mandamus to declare the order dated 06.07.2002, passed by the 2nd respondent and as confirmed by the 1st respondent, vide proceedings dated 05.02.2003, as illegal and arbitrary, and consequently, to direct the respondents to continue the petitioner as Fair Price Shop dealer of Tummapala Village, Anakapalle Mandal, Visakhapatnam District.

2. In pursuance of the notification dated 02.02.2002, inviting applications for appointment of Fair Price Shop Dealer for Tummapala village on permanent basis, the petitioner states that she along with 13 other applicants submitted their applications. The petitioner states that she along with eight other applicants was called for interview, and after conducting the interview, after due enquiry, the

3rd respondent vide order dated 28.02.2002 appointed her as Fair Price Shop Dealer on permanent basis. She states that questioning her appointment, respondents 4 to 6 preferred an appeal before the 2nd respondent contending that her mother was earlier Fair Price Dealer of the same Shop, and that her parents were also having kirana shop, and as such, she should not be appointed as Fair Price Shop Dealer. The petitioner states that she contested the appeal contending that

4th respondent is having a kirana shop and that respondents 4 and

5 are not residents of the village, and that neither herself nor her mother had any kirana shop, and that the

3rd respondent considering all these aspects appointed her as Fair Price Shop Dealer. However, the 2nd respondent by reason of the order dated 06.07.2002, set aside her order of appointment as Fair Price Shop Dealer, holding that the petitioner's mother was owning a kirana shop, and directed to renotify the shop for making fresh appointment. Assailing the said order, the petitioner states that she filed revision before the 1st respondent, but the 2nd respondent, who was kept in-charge of the 1st respondent, by order dated 05.02.2003, dismissed the revision. Hence, the petitioner filed the present writ petition.

3. The 1st respondent filed counter-affidavit contending that as per the guidelines issued in G.O.Ms.No.198 F, CS & CA (CS.IV) Department dated 05.02.1996, the candidate shall not have any connections with any other business directly or indirectly. It is contended that earlier in the year 1992 the mother of the petitioner was appointed as Fair Price Shop Dealer in respect of the same shop, but as her father-in-law was having a kirana shop, her appointment was cancelled. As the 3rd respondent despite being aware of these facts, yet appointed the petitioner as Fair Price Shop Dealer, the 2nd respondent by orders dated 07.07.2002, allowed the appeal filed by the unofficial respondents and set aside the order of the 3rd respondent, appointing the petitioner as Fair Price Shop Dealer, which was confirmed in revision by the 1st respondent vide orders dated 05.02.2003, and no interference is called for therewith.

4. Heard the learned counsel for the petitioner and the

learned Government Pleader for Civil Suppliers, and perused the material on record. Despite service of notice on the unofficial respondent, none appeared on their behalf.

5. The 3rd respondent appointed the petitioner as Fair Price Shop Dealer in respect of Tummalapala village. On the ground that the petitioner's mother's authorization in respect of the same shop earlier was cancelled because her father-in-law was having a kirana shop, the 2nd respondent cancelled the authorization of the petitioner. The 1st respondent confirmed the said cancellation of authorization of the petitioner by the 2nd respondent. To consider whether the cancellation of the authorization of the petitioner, is justified or not, it is appropriate to refer to Guideline No. 10.14 of the Guidelines, issued by the Government in G.O. Ms. No.198, F, CS & CA (CS.IV) Department, dated 05.02.1996, on which the 1st respondent placed heavy reliance. According to the said guideline, the candidate (Fair Price Shop Dealer) shall not have any connection with any other business directly or indirectly. From this, it becomes clear that the candidate, who is selected as Fair Price Shop Dealer shall not have any nexus with any business directly or indirectly. In the instant case, admittedly, before canceling the order of appointment of the petitioner as Fair Price Shop Dealer, the 2nd respondent has not conducted any enquiry to find out whether the petitioner had any nexus or connection with any other business either directly or indirectly. There is no material placed by the official respondents before the Court, to show that the petitioner had any nexus or connection with any other business directly or indirectly. Merely, because in respect of the same shop the authorization of the petitioner's

mother was cancelled because her father-in-law had kirana business, is no ground for the official respondents, especially respondents

1 and 2 to cancel the appointment of the petitioner as Fair Price Shop Dealer, made by the 3rd respondent, and more so when they failed to place any material before this Court to show that the petitioner had any nexus or connection with any other business, much less kirana business of her grandfather, namely father-in-law of her mother, which justifies cancellation in terms of Guideline No. 10.14 of the Guidelines, issued by the Government in G.O. Ms. No. 198, F, CS & CA (CS.IV) Department, dated 05.02.1996.

6. In the above view of the matter, the order passed by the

2nd respondent, as confirmed by the 1st respondent, canceling the appointment of the petitioner as Fair Price Shop Dealer in respect of Thummapala village made by the 3rd respondent, cannot be sustained and is liable to be set aside.

7. Hence, the Writ Petition is allowed. The order of the

1st respondent, which confirmed the order of the 2nd respondent, canceling the appointment of the petitioner as Fair Price Shop Dealer in respect of Thummapala village, made by the

3rd respondent, is set aside, and consequently, the order of the

3rd respondent, appointing the petitioner as Fair Price Shop Dealer in respect of the said village is restored. There shall be no order as to costs.

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N.V. RAMANA, J.

Dated 25.07.2007

sj